

Appeal from decision of the New Mexico State Office, Bureau of Land Management, rejecting high bid for competitive oil and gas lease. NM 31421 (Okla.).

Affirmed.

1. Oil and Gas Leases: Competitive Leases

Rejection of the high bid tendered for a parcel of land offered at a competitive oil and gas lease sale will be affirmed on appeal where it is supported on a rational basis by uncontradicted U.S. Geological Survey memoranda.

2. Oil and Gas Leases: Generally -- Oil and Gas Leases: Competitive Leases

The U.S. Geological Survey is the Secretary's technical expert in matters concerning geological evaluation of tracts of land offered at a sale of competitive oil and gas leases, and the Secretary is entitled to rely on the Survey's reasoned analysis.

APPEARANCES: Basil W. Reagel, pro se.

OPINION BY ADMINISTRATIVE JUDGE GOSS

Basil W. Reagel has appealed from a decision of the New Mexico State Office, Bureau of Land Management (BLM), dated September 13, 1978, rejecting his high bid for competitive oil and gas lease NM 31421 (Okla.), offered at a competitive oil and gas lease sale. Appellant's bid of \$5.01 per acre for parcel No. 7 was deemed inadequate, based on a recommendation and information submitted by U.S. Geological Survey (Survey).

This case is before us for the second time. BLM originally rejected appellant's bid as inadequate. In Basil W. Reagel, 34 IBLA 29 (1978), we held that the record was incomplete, BLM having failed based its rejection on the conclusory statement by Survey that the bid was inadequate. We remanded the case to BLM for compilation of a more complete record and readjudication of the bid as has long been our policy in such situations. On the basis of Survey information, BLM again rejected appellant's bid and this appeal followed.

In his statement of reasons for appeal, appellant reiterates the arguments advanced on his first appeal, namely, (1) his bid was 2-1/2 times the only other bid; (2) in a previous sale his bid of \$3.70 per acre was accepted for a parcel 3 miles south of this one; (3) the August 9 sale attracted 101 bids for 24 parcels, but only two bids were submitted for parcel No. 7, an indication of its value; and (4) due to the location of the 40 acres in an old oil field, it can only be developed in combination with other land so that it must be available at a reasonable price or no secondary recovery will be feasible. In addition, appellant argues that BLM is not entitled to present information supporting its September 13 decision which could have been offered as part of the record in the first appeal.

Appellant also intimates that BLM has not complied with the instructions of this Board and argues that he is entitled to an oil and gas lease by virtue of "unjust" delays in this case occasioned by BLM.

[1] BLM has followed Board instructions by compiling a more complete record and readjudicating appellant's bid. Appellant has not shown how he has been prejudiced by the normal delays inherent in this process. In any case, he is not entitled to a lease merely because he has had to wait for a final decision.

The United States reserves the right to reject all bids submitted at a competitive oil and gas lease sale. 43 CFR 3120.3-1. A decision involving the exercise of administrative discretion must be supported by a rational basis. A rejection of the high bid tendered at a competitive oil and gas lease sale will be affirmed on appeal where the record contains uncontradicted memoranda from Survey sufficient to establish a rational basis for the conclusion that the high bid was too low. B. D. Price, 40 IBLA 85 (1979).

The record now contains a detailed memorandum from Survey dated September 21, 1977. This is not an after-the-fact rationalization for BLM's August 30, 1977, decision rejecting appellant's bid; rather, as noted in the September 13, 1978, decision, it forms the basis for BLM's readjudication of the bid pursuant to our instructions in Basil W. Reagel, supra. It will be given consideration in this appeal.

Survey's memorandum indicates that its lease sale committee, composed of a petroleum engineer and a geologist, arrived at a minimum bid figure of \$15.00. The figure was "influenced strongly" by the performance of two wells located in the same section as parcel No. 7. One well completed in May 1969 had initial potential flowing of 213 barrels of oil per day plus 568 MCFGPD, with 91,000 barrels of oil to September 1977. The other well completed in July 1970 had initial potential flowing of 70 barrels of oil per day, with 13,500 barrels to September 1977. Furthermore the memorandum noted that

[o]ur geologic determination is that there is a possibility that the Hunton and Mississippian formations underlying the NE 1/4 SE 1/4 sec. 22 may be productive. If a well were to be drilled and completed as a producer at a location in this tract, Parcel 7 would participate in the production from such a well in accordance with the existing well spacing pattern.

The Hunton and Mississippian formations underlying sec. 22 are being developed on the basis of 80-acre spacing units oriented north and south. Parcel No. 7 is located in the SE 1/4 SE 1/4 sec. 22, T. 19 N., R. 9 W., Indian meridian, Kingfisher County, Oklahoma. The memorandum concluded by pointing to the higher bids received for other portions of the same oil and gas field, the new and higher prices for oil and gas and the fact that a \$5.00 bid would only be accepted "for lands with a dry hole or a depleted producer located on them, which would diminish the value of such lands considerably."

Other than the assertion that Parcel No. 7 is located in an "old oil field," appellant has submitted nothing pertaining to the capacity of the subject land for producing oil and gas upon which a reliable estimate of the land's value must be based. He has attempted merely to draw inferences from the pattern of bidding. Moreover, appellant has failed to show "by substantial evidence either: (1) the criteria utilized in establishing the minimum bid value failed to include all relevant considerations, or included factors which were not relevant; or (2) the criteria were incorrectly applied." H & W. Oil Co., 22 IBLA 313, 316 (1975).

[2] In such cases we will rely on the reasoned analysis of Survey, the Secretary's technical expert in matters concerning geologic evaluations. Frances J. Richmond, 29 IBLA 137 (1977). Accordingly we find that the BLM decision to reject appellant's bid is supported by the record in light of the additional information submitted by Survey in its September 21, 1977, memorandum. B. D. Price, supra.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Joseph W. Goss
Administrative Judge

We concur:

James L. Burski
Administrative Judge

Douglas E. Henriques
Administrative Judge

